



U.S. Department of the Interior  
Office of Inspector General

# **AUDIT REPORT**

**BUSINESS LICENSING FEES,  
DEPARTMENT OF LICENSING  
AND CONSUMER AFFAIRS,  
GOVERNMENT OF THE VIRGIN ISLANDS**

**REPORT NO. 98-I-293  
FEBRUARY 1998**



# United States Department of the Interior

OFFICE OF INSPECTOR GENERAL  
Washington, D.C. 20240

**FEB 27 1998**

Honorable Roy L. Schneider  
Governor of the Virgin Islands  
No. 21 Kongens Gade  
Charlotte Amalie, Virgin Islands 00802

Subject: Audit Report on Business Licensing Fees, Department of Licensing and Consumer Affairs, Government of the Virgin Islands (No. 98-I-293)

Dear Governor Schneider:

This report presents the results of our review of the business licensing functions of the Virgin Islands Department of Licensing and Consumer Affairs that occurred during fiscal years 1995 and 1996. The objective of the audit was to determine whether (1) businesses were obtaining licenses as required, (2) bills for license fees were issued timely and accurately, and (3) collection enforcement efforts were effective.

We found that, although the Department was generally effective in its business licensing activities, improvements were needed in the areas of licensing procedures, collection practices, and enforcement activities. Additionally, we believe that improvements should be made with regard to the testing and professional licensing of draftsmen and building contractors. Specifically, we found that:

- The Department did not process business license applications in a timely manner and did not always require the necessary approvals from other reviewing agencies (for factors such as whether the applicant had a criminal record and whether the business location met zoning and fire safety requirements) before business licenses were issued. Based on our review of 150 business license applications, we found that the average processing time was 31 workdays, with a range of 1 to 198 workdays, as compared with its 7-day initiative under the One Stop Licensing Program.

The Department did not maintain effective control over daily collections. Specifically, collections were not adequately safeguarded or reconciled and deposited daily, and unauthorized personnel were allowed to make collections. Our review of collection documents for sample time periods disclosed shortages totaling at least \$3,846. In addition, licenses were issued to businesses whose payment checks were not honored by the banks. As a result, the Department did not receive revenues totaling \$40,624 because of checks that were not honored.

- The Department was not effective in enforcing the licensing laws. Enforcement officers did not identify and notify licensees of their delinquent status until an average of 1 to 3 years after their licenses had expired and did not follow up with delinquent licensees **after** the initial notification. The Department's records indicate that more than 6,000 business licensees were delinquent and that the associated outstanding fees and penalties totaled more than \$3 million. Additionally, an amnesty program for delinquent licensees that was instituted during February and March 1995 resulted in the loss of about \$694,000 in potential revenues **from** penalties.

- Although the Department's Office of Boards and Commissions was responsible for testing and licensing most professionals, applicants for professional licenses as draftsmen and building contractors were tested by the Department of Public Works. However, Public Works did not have written rules and regulations or formal policies and procedures for administration of the draftsman and building contractor tests, and it did not have complete records on applicants' test results. Further, in our opinion, the test for building contractors should be more comprehensive to ensure that only qualified individuals are licensed.

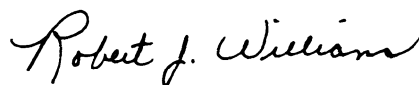
On November 21, 1997, we transmitted a draft of this report to you, requesting your comments by January 8, 1998. On January 30, 1998, we received your response (Appendix 2) dated January 26, 1998, which generally concurred with the report's 16 recommendations. Based on your response, we revised one recommendation (No. C.6), and we consider eight recommendations resolved and implemented and request additional information for eight recommendations, including one that is unresolved (see Appendix 3). We commend your commitment to improving the effectiveness and efficiency of the Department of Licensing and Consumer Affairs.

The Inspector General Act, Public Law 95-452, Section 5(a)(3), as amended, requires semiannual reporting to the U.S. Congress on all audit reports issued, the monetary impact of audit findings (Appendix 1), actions taken to implement audit recommendations, and identification of each significant recommendation on which corrective action has not been taken.

In view of the above, please provide a response, as required by Public Law 97-357, to this report by March 27, 1998. The response should be addressed to our Caribbean Regional Office, Federal Building - Room 207, Charlotte Amalie, Virgin Islands 00802. The response should include the information requested in Appendix 3.

We appreciate the assistance of personnel of the Department of Licensing and Consumer Affairs during the conduct of our audit.

Sincerely,



Robert J. Williams  
Acting Inspector General

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# INTRODUCTION

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## BACKGROUND

The Department of Licensing and Consumer Affairs was created by Title 3, Chapter 16, of the Virgin Islands Code to “provide and administer consumer services and programs . . . ; establish, administer, coordinate and supervise the regulation and licensing of private business and professions; and . . . administer services to [professional licensing] agencies, boards, and commissions.” The Department’s Division of Licensing is the primary unit responsible for issuing licenses for businesses and professions in the Virgin Islands, collecting license fees, and enforcing the licensing laws. Through eight boards and commissions, the Department also administers tests to applicants and approves licenses for professions such as plumbers, electricians, and beauticians.

In accordance with the Virgin Islands Code, every person or association wishing to engage in a business, occupation, profession, or trade in the Virgin Islands is required to apply for and obtain a license to engage in or to conduct such activity. As part of the licensing process, applicants are required to obtain approvals from several Governmental agencies, including the Bureau of Internal Revenue, the Department of Planning and Natural Resources, the Police Department, the Fire Department, the Department of Licensing and Consumer Affairs, and the Department of Health (if applicable).

Licenses are to be renewed annually, with fees determined by the type of business and the number of licenses requested. Agencies of the Virgin Islands and U.S. Government and religious, charitable, and educational organizations are exempt from the licensing requirements. The Department can impose a penalty of not more than \$500 against businesses found to be operating without a license. In addition, the Department can assess administrative fines of not more than 25 percent of the applicable license fee per month against persons or businesses that do not timely renew their licenses.

During fiscal year 1985, Act No. 5060 established the Stop Tax Evasion Program, which requires that all businesses receive a tax clearance letter from the Bureau of Internal Revenue stating that all tax obligations have been fulfilled in order to receive a current business or professional license. Furthermore, Title 27, Section 304(k), of the Virgin Islands Code states, “The Commissioner [of Licensing and Consumer Affairs] shall, after ten days’ notice, revoke any license of a person who fails to file and pay all taxes, penalties and interest due to the Virgin Islands Bureau of Internal Revenue in connection with the operation of his business activities, or who has not made a satisfactory agreement to pay the same.” The One Stop Licensing Program, another initiative of the Department, changed the approval procedure by requiring the Division of Licensing to obtain the necessary approvals from the appropriate Governmental agencies and to issue business licenses within 7 workdays of the receipt of applications.

The staff of the Division of Licensing comprises 25 individuals, who coordinate licensing activities in both the St. Thomas/St. John and the St. Croix districts. Two collectors assigned

to the Department of Licensing and Consumer Affairs collect (1) fees for business and professional licenses, foreign sales corporations, vendors' plaza tenants, and copies of applicants' police records and (2) penalties for late renewals and noncompliance with licensing laws. During fiscal years 1995 and 1996, respectively, the Department issued 16,776 and 16,825 business licenses and collected \$3.1 and \$3 million in fees and penalties.

## **OBJECTIVE AND SCOPE**

The objective of the audit was to determine whether (1) businesses were obtaining licenses as required, (2) bills for license fees were issued timely and accurately, and (3) collection enforcement efforts were effective. The scope of the audit included activities of the Division of Licensing and the Office of Boards and Commissions of the Department of Licensing and Consumer Affairs that occurred during fiscal years 1995 and 1996. The audit was conducted at the Department of Licensing and Consumer Affairs on St. Thomas and St. Croix and at the Departments of Finance, Police, and Public Works and at the Bureau of Internal Revenue on St. Thomas. In addition, we visited a random sample of 25 business establishments on St. Thomas to test the level of compliance with licensing laws.

Our review was made in accordance with the "Government Auditing Standards," issued by the Comptroller General of the United States. Accordingly, we included such tests of records and other auditing procedures that were considered necessary under the circumstances.

We limited the evaluation of internal controls over Departmental operations to the extent we considered necessary to accomplish the audit objective. The internal control weaknesses identified were related to the business licensing process, the collection of licensing fees, and the enforcement of licensing laws. These weaknesses are discussed in the Findings and Recommendations section of this report. The recommendations, if implemented, should improve the internal controls in these areas.

## **PRIOR AUDIT COVERAGE**

The Office of Inspector General has not conducted any audits of the Department of Licensing and Consumer Affairs during the past 5 years. However, our March 1989 report "Business Licensing Practices, Government of the Virgin Islands" (No. 89-56) stated that the Department allowed businesses to operate without proper licenses and did not collect all license fees or assess all appropriate penalties. During our current review, we found that these problems still existed.

## **FINDINGS AND RECOMMENDATIONS**

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### **A. BUSINESS LICENSING PRACTICES**

The Department of Licensing and Consumer Affairs, through its Division of Licensing, did not process business license applications in a timely manner and did not always require the necessary approvals from other reviewing agencies before it issued business licenses. Specifically, we found that it took, on the average, 31 workdays for business license applications to be processed, with the processing time ranging from 1 to 198 workdays. The Department's internal policy was to issue business licenses within 7 workdays. Additionally, Title 27, Section 303, of the Virgin Islands Code and the Department's Standard Operating Procedures for Processing Business Licenses require that all applications for business licenses be approved by the respective agencies before licenses are issued. These deficiencies existed because the Department did not enforce the timeliness and agency approval requirements for processing business license applications, there was a lack of adequate supervisory oversight within the Department's Division of Licensing, and there was a lack of adequate communication between the Department and the reviewing agencies. As a result, the delays in the issuance of business licenses caused concurrent delays in the start-up of new businesses, resulting in the loss of tax revenues to the Government, and the lack of required agency approvals resulted in the potential for businesses to operate without consideration of factors such as the suitability of the business location based on zoning and fire safety requirements or the criminal records of business owners.

#### **Timeliness of Processing Applications**

The St. Croix office of the Division of Licensing had procedures for informing applicants of the types of licenses available and the fees to be paid, assisting in the completion of application forms, obtaining required approvals, and coordinating inspections of facilities by the reviewing agencies. These procedures included having the applicants sign an Applicant's Acknowledgment Form, which indicates that the applicant understands the process; preparing documents to be sent by facsimile to the appropriate reviewing agencies; coordinating the joint physical inspection of the facilities; and recording the date of the transmittal of data among the various agencies. Since Departmental policy requires that a license be issued within 7 workdays of receipt of an application, Division personnel on St. Croix contacted the reviewing agencies when approvals were not returned within 5 workdays. Also, applications that contained deficiencies or did not receive the necessary approvals were mailed back to the applicants.

The Division's office on St. Thomas essentially followed the same procedures as those on St. Croix except that it did not use the Applicant's Acknowledgment Form and did not inform applicants when approvals from reviewing agencies were denied. At our March 14, 1997, exit conference, Departmental officials told us that the use of the Applicant's Acknowledgment Form was not a part of the formal procedures, but the officials agreed that there were benefits to standardizing the use of the form. On both island offices, completed application packages, which included the business license applications, enforcement

investigation reports, and reviewing agencies' inspection forms, were forwarded to the Director or the Assistant Director of Licensing, as appropriate, for review and final approval.

To test the license application procedures, we reviewed a random sample of 100 new business applications on St. Thomas and 50 new business applications on St. Croix and computed the processing times from the dates the applications were received to the dates the applicants paid the licensing fees and the licenses were issued. (The licensing files did not indicate the dates that applicants were notified that their licenses were ready to be picked up.) The St. Thomas office took an average of 18 and 27 workdays during fiscal years 1995 and 1996, respectively, to process the applications and issue the licenses. The St. Croix office took an average of 7 1 and 40 workdays during fiscal years 1995 and 1996, respectively, to process the applications and issue the licenses. The processing times ranged from 1 to 179 workdays in the St. Thomas office and from 2 to 198 workdays in the St. Croix office. Because of the lengthy application process, instead of the stated 7 days, businesses were delayed in opening as follows:

- On October 3, 1996, an applicant on St. Thomas applied for two business licenses: as a mobile food service provider and as a tavern keeper. The seven required agency approvals were all received by the Division by October 22, 1996. However, the licenses were not issued until December 15, 1996, or 44 workdays later. Although the Liquor Control Board had to perform a separate review pertaining to the tavern keeper license, the Department's files did not indicate how many days the additional review entailed. The total time from submission of the application to issuance of the licenses was 55 workdays.

- On March 21, 1996, an applicant on St. Thomas applied for a business license to operate an art studio. Of the four agency approvals required, three were received by the Division by March 28, 1996, but the fourth was not received until May 29, 1996. The license was not issued until June 11, 1996, or 13 workdays later. The total time from submission of the application to issuance of the license was 58 workdays.

- On September 30, 1995, an applicant on St. Croix applied for a business license to operate an air charter service. The Division did not submit the requests for approval to the approving agencies until January 22, 1996, and the last of the agency approvals was received by the Division on March 1, 1996. However, the license was not issued until August 7, 1996, or about 100 workdays later. The total time from submission of the application to issuance of the license was 198 workdays. There was no documentation in the license files to indicate the reasons for the processing delays.

On both islands, processing delays occurred because requests for agency approvals were not always submitted timely by the Division to the approving agencies and the approving agencies did not always return the completed documents in a timely manner. For example, on St. Croix, it took up to 4 months from the date of receipt of business license applications for the Division to request the necessary approvals from the various approving agencies and up to 3 additional months for those agencies to submit the approvals back to the Division. A factor contributing to the processing delays within the Division's office on St. Croix was that the position of Assistant Director was vacant from June 1995 through March 1996, resulting



in inadequate supervisory oversight of office operations. We could not identify other specific reasons for the delays. On St. Thomas, delays occurred primarily because the Division's enforcement officers did not always submit their approvals in a timely manner, in one case taking up to 45 days from receipt of the business application, because they had primary duties related to collection enforcement and did not have adequate supervisory oversight (as discussed in Finding C). The delays in the issuance of business licenses caused concurrent delays in the start-up of new businesses, resulting in the loss of tax revenues to the Government, and far exceeded the Division's own 7-day processing goal. Therefore, we believe that the Division should seek to the greatest extent possible to improve the timeliness of its operations and establish processing time frames that it can more realistically meet.

## **Application Review and Approval**

Although required by Title 27, Section 303, of the Virgin Islands Code and the Department's Standard Operating Procedures for Processing Business Licenses, the Division of Licensing did not always obtain all necessary agency approvals before it approved business license applications. Before business licenses are issued, all applications are to be checked to ensure that requirements related to applicants' criminal records, location and zoning, physical condition of the business facilities, and tax compliance were met. In addition, restaurant owners are required to obtain Department of Health approval that their establishments meet health and sanitation standards.

We found that 50 of the 150 new business applications in our sample had not been approved by at least one of the required agencies or signed by the appropriate official. Specifically, 11 applications were not approved by the Police Department, 36 were not approved by the Division of Licensing's Enforcement Unit, and 3 were not approved by the Director of Licensing. These deficiencies occurred because Division personnel did not enforce the approval requirements and the Division did not maintain adequate supervisory oversight of its enforcement officers (as discussed in Finding C). For example, on June 3, 1996, an applicant was issued licenses to operate a wholesale store and to import items for resale. However, the Division's Enforcement Unit had not approved the business's proposed location, although it had reviewed the facilities, and the Director of Licensing had not signed the application.

Because the approval requirements were not always complied with, there was a reduced level of assurance that: (1) businesses were in suitable locations, based on zoning requirements, and met fire safety requirements; (2) business owners did not have criminal records that would have affected their suitability for the particular type of business; (3) businesses had fulfilled their income and gross receipts tax obligations; and (4) food service businesses and employees complied with public health requirements.

## **Recommendations**

We recommend that the Governor of the Virgin Islands direct the Commissioner of Licensing and Consumer Affairs to:

1. Review and make necessary revisions to, in coordination with the other approving Governmental agencies, the procedures for obtaining approvals for such aspects of business licensing as tax compliance, zoning requirements, fire safety, criminal record checks, and health standards to ensure that such approvals are obtained within reasonable, mutually established time frames.

2. Review internal licensing procedures and make necessary revisions to ensure that the Division of Licensing, once agency approvals are received, can complete the processing of applications and issue the business licenses within reasonable established time frames. The internal procedures should be standardized throughout the Virgin Islands, require the use of the Applicant's Acknowledgment Form to ensure that business license applicants understand the licensing requirements, include controls to ensure that business licenses are not issued without all the necessary agency approvals, and provide for prompt notification to applicants of any problems or delays related to their applications.

3. Ensure that the Division of Licensing provides an adequate level of supervisory oversight so that established procedures are complied-with and established processing time frames are met.

## **Governor of the Virgin Islands Response and Office of Inspector General Reply**

The January 26, 1998, response (Appendix 2) to the draft report from the Governor of the Virgin Islands generally concurred with the three recommendations and indicated that corrective actions had been or were being taken. Based on the response, we consider the three recommendations resolved and implemented (see Appendix 3).

## **General Comments on Finding**

The Governor's January 26, 1998, response also provided comments that disagreed with certain aspects of the overall finding. The Governor's comments and our replies are as follows:

**Governor of the Virgin Islands Response.** The response stated that although the Department of Licensing concurs that it did not always process license applications in a timely manner, "most of the delays resulted from problems associated with coordinating the many reviews over which the Department [of Licensing] has little or no direct control." The response further stated that "some delays are the result of the fact that some licenses require Board approval prior to issuance," that other delays "are directly attributed to the applicants,"

and that "[s]ome applicants continue to submit applications although their facilities are not ready for inspection."

**Office of Inspector General Reply.** We acknowledged in the report that some processing delays resulted from factors outside the Department. For example, we stated (page 4) that "on both islands, processing delays occurred because requests for agency approvals were not always submitted timely by the Division [of Licensing] to the approving agencies and the approving agencies did not always return the completed documents in a timely manner." (Emphasis added.) Additionally, the examples presented in the finding took into consideration, to the extent that the information was available, delays attributable to obtaining outside agency approvals. However, we found significant delays that could not be attributed to factors outside of the Department's control. We **further** believe, as stated in the report (page 5), that "the Division should seek to the greatest extent possible to improve the timeliness of its operations and establish processing time frames that it can more realistically meet." (Emphasis added.)

**Governor of the Virgin Islands Response.** The response said that the Department did not always obtain all necessary approvals before issuing a license but that the Department "must point out that it is not always necessary to secure an approval in accordance with established Department Policy." The response further stated, "Therefore, unless the Audit Report allowed for this factor, the magnitude of non-compliance will be overstated."

**Office of Inspector General Reply.** In presenting the finding that related to obtaining outside agency approvals, we took into consideration those cases in which certain types of approvals were not necessary. Therefore, we believe that the report accurately presents the extent of noncompliance for the period covered in the scope of our audit (fiscal years 1995 and 1996).

## **B. COLLECTION PRACTICES**

The Department of Licensing and Consumer Affairs did not maintain effective control over its daily collections of license fees. Specifically, daily collections were not adequately safeguarded or reconciled and deposited daily, and unauthorized personnel were allowed to collect fees. In addition, licenses were issued to businesses whose payment checks had not been honored by the banks because of insufficient funds. The basic requirements for controls over collections are contained in Section 3 10 of the Government Financial Manual and the Department's Standard Operating Procedures for the Processing of Business Licenses. The deficiencies existed because the Department's collectors were unaware of the procedures outlined in the Government Financial Manual, which they did not have, and they did not comply with the Department's internal operating procedures. Additionally, the Department of Finance did not notify the Department of Licensing and Consumer Affairs when checks issued by licensees were returned unpaid. As a result of the control weaknesses, collection shortages of at least \$2,820 and \$1,026 occurred in fiscal years 1995 and 1996, respectively. In addition, the Department did not receive revenues totaling \$25,676 and \$14,948 in fiscal years 1995 and 1996, respectively, because of checks that were returned unpaid by banks.

### **Controls Over Daily Collections**

The Department's collectors and assistant collectors are responsible for receiving business license and other fees ranging from \$1 to \$2,000. License fees are collected after a licensee completes the license application or renewal processes.

**Physical Safeguards.** Section 3 10 of the Government Financial Manual requires that each collector be provided with a vault or a safe to secure funds in his or her custody. However, on St. Croix, the collections were stored in a nonlocking desk drawer. A change fund of \$154, which was not always used by the collector, was kept in an unlocked cash box in the same desk drawer. At the time of our initial review on St. Thomas, daily cash collections were kept in an unlocked container in an unlocked filing cabinet, and a change fund of \$100 was kept in an unsecured plastic container. In addition, the collector and the assistant collector on St. Thomas often left the cashier's office unlocked and unattended for periods of up to several minutes. In August 1996, during our audit, the Department of Licensing and Consumer Affairs reconstructed the cashier's office on St. Thomas and installed separate locking drawers for the desks of the collector and the assistant collector. However, deficient safeguards had not been corrected on St. Croix, which resulted in the potential for funds to be misappropriated.

We also observed that funds were sometimes collected by unauthorized personnel. The Government Financial Manual states that cash collections should be accepted only by the collectors and the assistant collectors, who are bonded to safeguard the interests of the Government if the funds collected are lost. However, on December 3, 1996, an employee from another division within the Department received a cash payment of \$265 from a licensee for the renewal of a business license. The collection was made after the cashier's office had been closed for the day. The employee who received the payment did not issue

a receipt to the payee, and the funds were not given to the collector until December 5, 1996. The collection of funds by unauthorized personnel creates the potential for differences between the licensees and the Department over the timely payment of licensing fees and for the funds to be misappropriated by unauthorized employees who make such collections.

**Accounting Safeguards.** Section 3 10 of the Government Financial Manual requires that collectors deposit all collections daily and that collections be deposited without deductions. Before each daily deposit is made, the collector is required to total all collections, prepare a daily summary, assemble and account for all receipts, and prepare a certificate of deposit (deposit slip). The collector is also required to segregate the funds received for license fees from those received for penalties, which are deposited into separate accounts. To test compliance with these requirements, we reviewed the collection records for 6 months in fiscal year 1995 and 5 months in fiscal year 1996 on St. Thomas and for 4 months in fiscal year 1995 and 2 months in fiscal year 1996 on St. Croix. During our review of the St. Croix office, we found net collection shortages of \$91 for fiscal year 1996. In the St. Thomas office, we found net collection shortages of \$2,820 for fiscal year 1995 (including \$2,315 in March 1995) and \$935 for fiscal year 1996. For example, on St. Thomas:

- On March 7, 1995, receipts totaled \$17,875, but only \$17,675 was deposited, which resulted in a cash shortage of \$200.

- On March 14, 1995, receipts totaled **\$14,152.34**, but only **\$12,852.34** was deposited, which resulted in a shortage of \$1,300.

- On March 15, 1995, receipts totaled \$20,825, but only \$19,725 was deposited, which resulted in a shortage of \$1,100.

Section 3 10 of the Government Financial Manual requires that a prenumbered Government receipt be issued for every collection and that information on the receipts not be erased or altered. If a receipt is altered, it should be canceled by writing "void" across the face of the receipt. However, we found several instances in which information on the receipts was erased and/or altered. For example, on St. Thomas, Receipt No. 1265 19, dated January 9, 1996, was issued with another amount written over the original amount. Additionally, although receipts should be issued in numerical sequence, we found that this was not always done. For example, on St. Croix, Receipt No. 22295 1 was issued on May 8, 1996, whereas Receipt No. 22265 1 was not issued until May 21, 1996.

We also found that, although the Department's Standard Operating Procedures for the Processing of Business Licenses require that the collections supervisor review and initial each day's collection summary before the collection is deposited into bank accounts, this procedure was not always complied with. Further, when the collector went to lunch, the assistant collector did not record the collections on hand and the receipts used up to that time so that individual accountability could be ensured. During our review, we informed the

Director of Licensing of this matter, and the Director established a reconciliation form to be used by collectors before and after they fill in for each other and at the end of the day.

**Daily Deposits.** Section 3 10 of the Government Financial Manual requires that collections be deposited daily. However, we found that this was not always accomplished. For example:

- On St. Croix, collections for December 1, 1995, totaling \$550, were not deposited until December 11, 1995.

- On St. Thomas, collections for March 17, 1995, totaled \$43,415 (including \$14,150 in cash). However, only \$3,675 was deposited on that day. The remaining \$39,740 was not deposited until March 20, 1995.

At the conclusion of our audit, the cash shortages that were disclosed by our review had not been addressed. Although Departmental officials told us that they were unaware of the requirements of the Government Financial Manual, we believe that the shortages and other deficiencies, such as the delayed deposit of collections, the altered receipts, and the issuance of receipts out of numerical sequence, could be indicators of improper actions. Therefore, we believe that the Department, in coordination with the Office of the Virgin Islands Attorney General, should review collection records to determine whether improper actions did in fact occur and, if so, to take appropriate action

## **Checks Not Honored**

Title 27, Section 302, of the Virgin Islands Code lists the annual fees to be paid by individuals who conduct business in the Virgin Islands. License applications are processed and licenses are issued upon payment of the appropriate fees. However, we determined, based on information received from the Department of Finance, that 85 checks for fiscal year 1995 and 63 checks for fiscal year 1996 were returned unpaid by the banks because of insufficient funds or other problems such as closed accounts, stop payments placed on checks, uncollected funds, and unauthorized signatures. Although the Department of Finance was responsible for following up with the payees and collecting the amounts of the checks that were not honored, the Department had not established guidelines to collect the amounts due and did not have a computer program to assist in tracking these returned unpaid checks. Additionally, the Department of Licensing and Consumer Affairs was not notified by the Department of Finance of the returned checks. Therefore, the licensees continued to operate their businesses without having paid the required licensing fees, and the Government had not realized the related revenues, which totaled \$25,676 and \$14,948 during fiscal years 1995 and 1996, respectively. In November 1994, the Virgin Islands Bureau of Audit and Control issued the audit report "The Procedures for the Collection of Dishonored Checks" (No. AC-01-30-94), which addressed this matter on a Governmentwide basis. At the time of our review, the Bureau of Audit and Control said that many of the report's recommendations were still unresolved.

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## **Recommendations**

We recommend that the Governor of the Virgin Islands direct the Commissioner of Licensing and Consumer Affairs to:

1. Obtain copies of and enforce compliance with the Virgin Islands Government Financial Manual, particularly with regard to the physical and accounting controls over daily collections.
2. Perform a detailed review, in coordination with the Virgin Islands Attorney General's Office, of the cash shortages and all collection-related discrepancies cited in this report to determine whether improper activities occurred that warrant further action.
3. Establish and implement procedures to ensure that licensees who paid licensing fees with checks which were not honored by the banks are notified and are required to pay the outstanding amounts.

We recommend that the Governor of the Virgin Islands direct the Commissioner of Finance to:

4. Establish and implement procedures, consistent with the recommendations contained in the November 1994 audit report by the Virgin Islands Bureau of Audit and Control, to account for and pursue the collection of amounts owed the Government as a result of checks that were not honored by the banks. These procedures should include providing the Department of Licensing and Consumer Affairs with a monthly listing of checks issued to that Department that were not honored by the banks.

## **Governor of the Virgin Islands Response and Office of Inspector General Reply**

The January 26, 1998, response (Appendix 2) to the draft report from the Governor of the Virgin Islands generally concurred with Recommendations 1, 2, and 3 and indicated that corrective actions had been or were being taken. However, the response did not address Recommendation 4. Based on the response, we consider Recommendation 3 resolved and implemented. Also based on the response, we request additional information for Recommendations 1 and 2 and also request that the Governor provide a response to Recommendation 4, which is unresolved (see Appendix 3).

## **General Comments on Finding**

The Governor's January 26, 1998, response provided comments that disagreed with certain aspects of the overall finding. The Governor's comments and our reply are as follows:

**Governor of the Virgin Islands Response.** The response stated: "We disagree that the Department did not maintain effective control over its daily collection of license fees.



We accept that some adjustments are necessary; but overall, we believe the Agency has effective control over its collections.” Regarding the example cited in our report of an employee who was not a cashier accepting cash from a licensee, the response stated that it was “\*incorrect to describe the incident . . . as an authorized collection of **funds**” and that the licensee was a “**friend** of the employee” and had asked the employee to make payment on his behalf to the Department’s cashier.

**Office of Inspector General Reply.** The example did not provide the sole basis for our conclusion on collections, but as the finding shows, the Department did not have physical and accounting safeguards. Specifically, cash shortages of almost \$4,000 had not been explained during or subsequent to our audit, and the Department did not receive revenues of about \$40,000 because checks issued by licensees in payment of license fees were returned unpaid by the banks. We believe that these deficiencies, which were acknowledged in the Governor’s response, support our finding regarding the lack of effective control over collections.

Regarding the example, we believe that even one instance of an employee who was not a cashier accepting a collection puts the Department at risk because the potential exists for a licensee to claim that he had made payment to a representative of the Department if a question later arises as to whether such payment was made. Based on the requirements of the Government Financial Manual, employees who are not specifically designated as cashiers should not accept payments **from** the Department’s clients.

## C. ENFORCEMENT ACTIVITIES

The Department of Licensing and Consumer Affairs was not effective in enforcing the licensing laws. Specifically, enforcement officers did not notify licensees of their delinquent status until 1 to 3 years after their licenses had expired and did not follow up with delinquent licensees after the initial notifications. Although the Department's Standard Operating Procedures for the Processing of Business Licenses state that licensee files should be reviewed daily to identify delinquent licensees, the procedures did not specify a time frame in which licensees should be notified of their delinquent status. The Standard Operating Procedures also state that if a licensee does not respond within 10 days of the initial notification of delinquency, the case should be forwarded to the Department's Legal Unit for a hearing for revocation of the business license. However, these files were not referred by the enforcement officers on a consistent basis. These deficiencies occurred because internal procedures and transportation resources were inadequate and file management systems were ineffective. As a result of these deficiencies, the Department's records indicated that more than 6,000 business licensees were delinquent and that the associated outstanding fees and penalties totaled more than \$3 million. We also found that an amnesty program for delinquent licensees, which was instituted during February and March 1995, was ineffective, resulting in the loss of about \$694,000 in potential revenues from penalties.

### Delinquent Licensees

The Department did not take timely action to identify delinquent business licensees and notify them of their delinquent status and did not follow up to ensure that these licensees complied with the licensing requirements, including payment of penalties provided for in Title 27, Section 307(d), of the Virgin Islands Code. To test the level and timeliness of enforcement activities, we reviewed a random sample of 74 delinquent licensees: 50 on St. Thomas and 24 on St. Croix. Based on our review, we found that on St. Thomas, the licensees had been delinquent for periods of as many as 99 months, with an average delinquency of about 3 years. On St. Croix, the licensees had been delinquent for periods of as many as 35 months, with an average delinquency of about 1 year. Although the delinquencies were significant, enforcement officers were not consistent in contacting the delinquent licensees.

We also found that in those instances where followup action was initiated, it took the enforcement officers an average of 136 days on St. Thomas and 160 days on St. Croix to complete the steps specified in the Department's Standard Operating Procedures. These steps included making an initial telephone contact with the licensee, performing an on-site inspection to determine whether the licensee was still in business, and either issuing a formal notice of delinquency or deleting closed businesses from the licensing files. Although Departmental procedures did not state a time frame for the follow-up actions, we believe that the average 4- to 5-month period used by enforcement officers was inconsistent with good business practices.

Further, Departmental personnel did not follow internal procedures for referring delinquent licensees to the Department's Legal Unit. The internal procedures provide that if a licensee does not respond within 10 days to a notice of delinquency, the case should be **referred** to the Department's Legal Unit for scheduling of a hearing for revocation of the business license. However, we found that on St. Thomas, referrals were not made and that on St. Croix, hearings were not scheduled, although referrals had been made by the enforcement officers. No revocation hearings were held on either island during fiscal years 1995 and 1996.

We found that the effectiveness of enforcement activities was impacted by the following:

- The enforcement officers on both islands were not informed by their chief when delinquency notification letters were returned by the post office as undelivered so that they could take other actions to follow up with the delinquent licensees.
- The enforcement officers on St. Thomas were assigned duties related to the processing of new license applications, such as locating overdue agency approvals and conducting on-site inspections of new business facilities. Therefore, the enforcement officers had less time to conduct **followup** actions with delinquent licensees.
- Each island had only one vehicle available for the enforcement officers to use to conduct on-site inspections and **followup** contacts with delinquent licensees and on-site inspections of new businesses. Therefore, only a small number of inspections and **followup** contacts could be performed because of the limited transportation resources. Departmental personnel also stated that the available vehicles were not suited for the rough terrain often traveled by the enforcement officers.

**File Management.** Another factor that significantly impacted the Department's enforcement activities was its file management systems. The Department maintained two types of filing systems on each island: (1) a hard copy filing system, which had initial applications, tax reference letters, and copies of correspondence, and (2) a computer database system. However, neither system was current, complete, or accurate.

At the time of our review, the Department's St. Thomas office had approximately 1,000 hard copy files for businesses that needed to be deleted **from** the computer data files. Additionally, we found that because of inadequate storage capacity on the computer, about 740 businesses were lost from a computer data file of active licensed businesses for fiscal year 1995.

To test the accuracy of the computerized systems, we reviewed a total of 161 active and delinquent licensee files on both St. Thomas and St. Croix. On St. Thomas, 3 of 50 licensees shown as "renewals" were new business applicants, and 8 of 40 licensees shown as "delinquent" were not delinquent. On St. Croix, all 31 licensees shown as "current" were delinquent, and, conversely, 27 of 40 licensees shown as "delinquent" were not delinquent.

The hard copy filing systems were also incomplete. During our audit, Departmental employees frequently could not locate requested files, primarily because sign-out cards were not used for files that had been removed. In other instances, the application forms were missing certain information, or other documents were missing from the files. We also found that some Departmental employees made temporary files for businesses when the original files could not be located. For example, one original file contained information that an enforcement officer had written to a licensee concerning a delinquency for 1994. During an on-site visit to the business, the business owner showed the enforcement officer a current business license that was to expire in 1997. Upon returning to the office, the enforcement officer located a second, temporary file for this business that included copies of licenses issued for 1995 through 1997.

## **Amnesty Program**

Title 27, Section 304(j), of the Virgin Islands Code states that the Commissioner of Licensing and Consumer Affairs may not renew a license without a signed affidavit (commonly referred to as a “tax clearance letter”) from the Virgin Islands Bureau of Internal Revenue indicating that the licensee has met all tax-related obligations. This law was based on a Stop Tax Evasion Program, which was developed jointly by the Department and the Bureau of Internal Revenue. However, contrary to the provisions of Section 304(j), the Department’s internal rules and regulations allow licenses to be renewed without a tax clearance letter, provided that the licensee obtains a tax clearance letter within 30 days.

The Commissioner of Licensing and Consumer Affairs instituted an amnesty program, from February to March 1995, under which delinquent licensees and those awaiting tax clearance letters were allowed to pay their license fees without any accompanying penalties. During the amnesty period, 855 licensees paid their renewal fees without having to obtain tax clearance letters. Although the Department collected \$343,000 in license fees, the Department excused an additional \$694,000 in potential revenues from the related penalties. Additionally, we found that of the 855 licensees who were allowed to pay license renewal fees without paying penalties and without obtaining a tax clearance letter, 635 licensees (475 on St. Thomas and 160 on St. Croix) had outstanding tax obligations at the time of our review and were unable to obtain tax clearance letters. The Department had sent letters to these licensees requesting compliance within 30 days, but the licensees had not paid the delinquent taxes or made arrangements to pay the taxes. However, during the amnesty period, they were able to continue to operate their businesses. Although Title 27, Section 304(k), of the Virgin Islands Code allows the Commissioner of Licensing and Consumer Affairs to revoke the licenses of persons who do not pay their tax obligations within 10 days of notification, none of these businesses had their licenses revoked as of the date of completion of our audit (December 1996), or 21 months after the end of the amnesty period.

## **Recommendations**

We recommend that the Governor of the Virgin Islands direct the Commissioner of Licensing and Consumer Affairs to:

1. Establish and implement procedures that require the Department's Enforcement Unit to contact delinquent licensees by telephone or in writing within 30 days of the expiration of their licenses and to refer licensees to the Legal Unit if the licensees do not respond within 10 working days of notification of their delinquency.

2. Establish and implement procedures to ensure that the assigned enforcement officers are notified by the chief officer if notification letters sent to delinquent licensees are returned as undeliverable so that other methods can be used to contact the licensees.

3. Provide the Enforcement Unit with an adequate number and type of vehicles to allow the enforcement officers to perform on-site inspections and **followup** contacts with delinquent licensees throughout the islands.

4. Develop a comprehensive file management system that consolidates key information on licensees into a single computer database, with critical information and case history documentation being maintained in permanent case files. The file management system should be standardized on both St. Thomas and St. Croix and include procedures for signing out case files from permanent storage cabinets.

5. Coordinate with the Bureau of Internal Revenue to resolve the issue of businesses that were issued license renewals during the 1995 amnesty program without obtaining tax clearance letters. Procedures should be implemented to revoke licenses of delinquent businesses if they do not fulfill their tax obligations.

6. Perform a thorough review of all pertinent factors, including the potential lost tax and penalty revenues and the likelihood of repeat offenders continuing to be delinquent, before implementing any future amnesty programs. Any future amnesty programs should also be coordinated with the Bureau of Internal Revenue regarding the issuance of tax clearance letters to delinquent licensees.

## **Governor of the Virgin Islands Response and Office of Inspector General Reply**

The January 26, 1998, response (Appendix 2) to the draft report **from** the Governor of the Virgin Islands generally concurred with the six recommendations and indicated that corrective actions had been or were being taken. Based on the response, we revised Recommendation 6, and we consider Recommendations 2, 5, and 6 resolved and implemented and request additional information for Recommendations 1, 3, and 4 (see Appendix 3).

## **Recommendation 6. Partial concurrence.**

**Governor of the Virgin Islands Response.** Although the response stated that any future amnesty program should be “coordinated” with the Bureau of Internal Revenue, the response did not agree that the “concurrence” of the Bureau should also be obtained before the Department of Licensing implemented any future amnesty program because, according to the response, such concurrence “would be tantamount to granting the Bureau veto powers over the internal affairs of the Department.”

**Office of Inspector General Reply.** Based on the concerns expressed in the response, we have revised the recommendation from requiring the Bureau’s concurrence to coordinating with the Bureau on any future amnesty program.

## **General Comments on Finding**

The Governor’s January 26, 1998, response provided comments that disagreed with certain aspects of the overall finding. The Governor’s comments and our replies are as follows:

**Governor of the Virgin Islands Response.** The response stated that the Department “disagrees with the characterization of the hard [copy] files as being incomplete simply because at the time a file was requested it was not in the cabinet.” The response further stated: “There are a number of valid reasons why the file of a particular business may be in the possession of another agency official at the time it was requested. These files are always returned to the cabinet when the reasons for their removal are complete.”

**Office of Inspector General Reply.** We based our conclusion that the Department’s hard copy filing system was incomplete not on the single instance cited in the report of a file not being available to the auditors but on the fact that 6 of 40 files we selected for review could not be located by Department personnel. Additionally, we found that 30 of 50 licensee files selected for another phase of our review did not contain one or more required documents.

**Governor of the Virgin Islands Response.** The response stated, “[W]e strongly disagree with the finding that more than six thousand (6,000) businesses were delinquent and that more than three million dollars (\$3,000,000) in fees and penalties were outstanding.” The response also stated that the Division of Licensing’s computer software program “contained a flaw that resulted in businesses which were closed being erroneously carried as active.” The response provided updated information showing that there were 2,169 delinquent businesses with outstanding fees totaling \$436,131 and penalties totaling \$1,751,313. The response further stated: “[W]hile these delinquencies have the potential for yielding approximately 1.7 million dollars in penalties, this figure was determined by utilizing the maximum amount penalty applicable under the law. The Department rarely applies the maximum penalty in these cases, as applicants routinely request hardship waivers or reductions. Therefore, in actuality, collections would be much less than the maximum potential yield.”

**Office of Inspector General Reply.** Our report (page 13) states that “the Department’s records indicated that more than 6,000 business licensees were delinquent **and** that the associated outstanding fees and penalties totaled more than \$3 million.” (Emphasis added.) This statement was based on the Department’s records at the time of the audit. Our report states (section “Delinquent Licensees” in Finding C) that the Department’s records were inaccurate and incomplete. Specifically, the report states that “the Department’s St. Thomas office had approximately 1,000 hard copy files for businesses that needed to be deleted from the computer data files,” that “8 of 40 licensees [sampled on St. Thomas] shown as ‘delinquent’ were not delinquent,” and that “27 of 40 licensees [sampled on St. Croix] shown as ‘delinquent’ were not delinquent.” However, we believe that the Department’s updated records, which, according to the response, show that there were 2,169 delinquent licensees, with outstanding fees totaling \$436,131 and potential penalties totaling \$1.7 million, should be a matter of concern. A detailed list of delinquent businesses included with the Governor’s response show that many of the businesses had been delinquent for up to 2 years, which we believe supports our overall conclusion that “the Department was not effective in enforcing the licensing laws.” Additionally, we believe that the statement in the response that “the Department rarely applies the maximum penalties” implies a level of leniency on the part of the Department that could undermine the deterrent effect of applying penalties uniformly against delinquent licensees.

**Governor of the Virgin Islands Response.** The response stated, “The Department strongly disagrees with the finding that licensees were allowed to renew their licenses without tax clearance letters during the Amnesty Program.” The response further stated, “While licensees were allowed to pay license fees and were excused **from** penalties, under the program no license was renewed until a tax clearance letter was presented.”

**Office of Inspector General Reply.** Based on a reevaluation of our audit results, we changed the statement in the section “Amnesty Program” in Finding C **from** “licensees were allowed to renew their licenses” to “licensees were allowed to pay license renewal fees.” This revised statement acknowledges that, although the licensees paid the renewal fees, the Department did not issue license renewal certificates. However, the Department’s acceptance of license renewal fees without imposing late penalties and without following up to ensure that delinquent licensees received tax clearance letters, in effect, gave the licensees approval to continue to operate their businesses without penalty or obligation to pay their outstanding tax liabilities. Therefore, the amnesty program aided the delinquent licensees at the expense of Government revenues and provided an opportunity that was not afforded other businesses that complied with the licensing laws.

## D. PROFESSIONAL LICENSING PRACTICES

All professional licenses except those for draftsmen and building contractors are approved by the Department's Office of Boards and Commissions. The Department of Public Works is responsible for testing applicants for licenses as draftsmen and building contractors.<sup>1</sup> According to Department of Public Works policies, applicants for a draftsman license are required to pass an 8-hour test that includes both written and practical "hands-on" sections. In contrast, applicants for a building contractor license are required to pass only a 1-hour test that consists of multiple choice and true/false questions. The latter test is based on the study of three manuals and other documents on a list issued by Public Works. However, we believe that, because of the oversight responsibilities of a building contractor, applicants for a building contractor license should be required to demonstrate a basic knowledge of a variety of disciplines, including carpentry, masonry, plumbing, electricity, and the ability to supervise a multidisciplinary work force. Before the current draftsman and building contractor tests were instituted in 1989 and 1985, respectively, licenses for these two professions were based only on interviews conducted with the applicants by Public Works officials.

Our review at Public Works disclosed that there were no written rules and regulations or formal policies and procedures for administering the draftsman and the building contractor tests. We requested the files of 25 building contractors and 25 draftsmen to determine the bases for the issuance of their licenses. However, Public Works officials could not locate the files of 8 of the 25 building contractors and 4 of the 25 draftsmen. Of the 17 building contractors whose files were located, we found that 7 had taken and passed the written test and that the other 10 building contractors had been issued their licenses before 1985 on the basis of interviews. Of the 21 draftsmen files located, 13 files of persons who received licenses between 1969 to 1990 did not contain sufficient information to determine the basis for the issuance of the licenses, and the remaining 8 files indicated that the licensees had taken and passed the draftsman test. We also found that the Department of Licensing and Consumer Affairs had issued a license to a draftsman who was not recommended for a license by Public Works.

One licensed building contractor, together with one or more unlicensed building contractors, can register as a company. Our review also disclosed that licenses for such companies were renewed annually without verification by the Department of Licensing that each company had at least one licensed contractor.

As a result of the deficiencies related to the licensing of draftsmen, individual building contractors, and building contractor companies, there was little assurance that licensed individuals and companies had the skills necessary to ensure the quality of structures they designed and/or constructed. In our opinion, a Draftsman and Building Contractor Licensing Board should be established under the Office of Boards and Commissions of the Department

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<sup>1</sup>**Draftsmen** draw architectural plans and sketches for the construction of structures for living and business uses, and building contractors, with a team of workers, construct the structures using **specified** plans.



of Licensing and Consumer Affairs to administer the testing and licensing of draftsmen and building contractors.

## **Recommendations**

We recommend that the Governor of the Virgin Islands:

1. Establish a Draftsman and Building Contractor Licensing Board, under the Office of Boards and Commissions of the Department of Licensing and Consumer Affairs, which would be responsible for administering tests for the licensing of draftsmen and building contractors.

2. Require that the recommended Licensing Board and the Department of Public Works jointly develop a more comprehensive licensing test for building contractors.

3. Require the Department of Licensing and Consumer Affairs, as part of the license renewal process, to ensure that all building contracting firms have at least one licensed building contractor as a member of the firm.

## **Governor of the Virgin Islands Response and Office of Inspector General Reply**

The January 26, 1998, response (Appendix 2) to the draft report from the Governor of the Virgin Islands generally concurred with the three recommendations and indicated that corrective actions had been or were being taken. Based on the response, we consider Recommendation 3 resolved and implemented and request additional information for Recommendations 1 and 2 (see Appendix 3).

**CLASSIFICATION OF MONETARY AMOUNTS**

<u>Finding</u>	<u>Unrealized Revenues*</u>
B. Collection Practices	
Daily Collections	\$3,846
Dishonored Checks	40,624
C Enforcement Activities	
Delinquent Licensees	3,700,000
Amnesty Program	<u>694,000</u>
Total	<u>\$4,438,470</u>

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\* Amounts represent local funds.



**THE UNITED STATES VIRGIN ISLANDS**

**OFFICE OF THE GOVERNOR  
GOVERNMENT HOUSE**

**Charlotte Amalie, V.I. 00802  
809-774-0001**

January 26, 1998

Honorable Wilma Lewis  
Inspector General  
U.S. Department of Interior  
Office of the Inspector General  
Washington, D.C. 20240

**Subject: Draft Audit Report No. V-IN-VIS-003-96  
Business License Fees, Department of Licensing  
And Consumer Affairs, Government of the  
Virgin Islands**

Dear Inspector General Lewis:

We have reviewed your Draft Audit Report No. V-IN-VIS-003-96, Business License Fees, Department of Licensing and Consumer Affairs, Government of the Virgin Islands, and submit the following response to your findings and recommendations:

**A. BUSINESS LICENSING PRACTICES**

**1. Timeliness of Processing Applications**

The Department of Licensing and Consumer Affairs concurs that it did not always process license applications in a timely manner. However, we contend that most of the delays resulted from problems associated with coordinating the many reviews over which the Department has little or no direct control. The Department has been working with the reviewing agencies to improve this aspect of the process. There has already been significant improvements by the V.I. Bureau of Internal Revenue (IRB) in issuing tax clearance letters. Also, through extensive discussions and meetings, the problems regarding the timeliness of police record checks and health inspections have also been largely resolved.

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Additionally, some delays are the result of the fact that some licenses require Board approval prior to issuance. Again, the Department has little or no direct control over the activities of the Board. In these cases, although the Department may complete its review within established time line, the license cannot be issued until the Board acts.

Finally, some delays in the processing of a business license are directly attributed to the applicants. Some applicants continue to submit applications although their facilities are not ready for inspection. Upon inspection, these businesses will undoubtedly fail for one reason or another. If a business cannot secure a favorable recommendation from one of the reviewing agencies, the license cannot be issued until the necessary corrective measures are taken and a favorable recommendation is secured.

The above factors all impact on the Department's ability to issue licenses within the established time frame. Therefore, we contend that it is unfair to include applications affected by the above factors in any examination of the Department's effectiveness in meeting time lines. However, the Department proposes to take the following actions to comply with recommendation # 1:

- (a) The Department will continue to meet with the various reviewing agencies to explore ways of revising and improving the processing of approvals.
- (b) The Department will require that the Director of Licensing submit a monthly report to the Commissioner indicating the rate of compliance within the established time frame and the specific reasons for non-compliance.

## **2. Application Review and Approval**

The Department concurs that the Division of Licensing did not always obtain all necessary approval before it issued a license. However, we must point out that it is not always necessary to secure an approval in accordance with established Department Policy. For example, a tax clearance letter and police record check are considered valid for one (1) year. Therefore, an applicant with a favorable tax clearance letter and a police record can process several licenses within the period of one (1) year without **having** to obtain new tax clearance letters or police record checks. Therefore, unless the Audit Report allowed for this factor, the magnitude of non-compliance will be overstated. Moreover, the Department contends that once all necessary approvals are received, the Division of Licensing can complete the processing and issue a license within four (4) working days as required by existing procedures. At any rate, the Department will take the following steps to comply with recommendation #2:

- (a) The Department will require the Chief Enforcement **Officer** to promptly notify and document any communication with an applicant to inform him of any deficiency in his application.

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- (b) The Department will require the use of Applicant's Acknowledgment form on both islands to ensure that applicants understand the licensing requirements.
- (c) The Department has instructed the Chief Enforcement **Officer** to ensure that all necessary approvals are in place before a license is issued.
- (d) The Department has instructed the Director of Licensing to ensure that established procedures are complied with and established time frames are met.

## **B. COLLECTION PRACTICES**

### **1. Control Over Daily Collections**

We disagree that the Department did not maintain effective control over its daily collection of license fees. We accept that some adjustments are necessary; but overall, we believe the Agency has effective control over collections. We believe it is incorrect to describe the incident of December 3, 1996 as an authorized collection of funds. This incident probably resulted from the fact that the licensee, who was a friend of the employee asked the employee to make the payment on his behalf as a favor. The applicant knew the employee was not authorized to collect revenue; and, in fact, was requesting that the employee tender payment on his behalf rather than requesting the employee to collect revenues on behalf of the Department. The Department does not condone this incident, but believes it is unfair to characterize it as an authorized collection of funds. At any rate, the Department will issue instructions to prohibit employees **from** taking such actions in the future.

### **2. Physical Safeguard**

The Department agrees with the Report's finding with regard to physical safeguard. As pointed out in the Report, the facilities on St. Thomas were corrected during recent renovations. The problems on St. Croix will be corrected with the installation of the P.C. Cash Drawer System which is soon to be installed as part of improvements in the FMS Program.

### **3. Accounting Safeguard**

The Department agrees with the finding that there were net collection shortages associated with the incidents cited in the report. The Department will request that the Department of Justice assist in conducting a detailed review of these shortages to determine whether or not improper action did in fact occur and, if so, appropriate action will be taken.

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#### **4. Checks Not Honored**

The Department agrees with the Report's findings that unreported dishonored checks could result in businesses continuing to operate without having paid the required license fees. The Department has already requested that the Department of Finance (DOF) notify the DLCA of the occurrence of dishonored checks. Upon notification from DOF, the Department notifies the licensee, in writing, that as a result of the dishonored check, the business is in delinquent status. The licensee is given thirty (3) days to make payment or the matter is referred to the Legal Unit for revocation. This procedure has already been implemented,. \*See attached Memo).

In addition to the actions already taken, the Department will undertake the following actions in order to comply with the Report's recommendation:

- (a) The Department has already obtained copies of the Virgin Islands Government Financial Manual. The pertinent sections have been distributed to all collection personnel with a directive for strict compliance.
- (b) The Department will request that the Attorney General's Office undertake a detailed review of all collection-related discrepancies cited in the Report. The Department is also exploring the possibility of accepting credit card payments for Licensing Fees and penalties in an effort to cut down on the use of checks.

### **C. ENFORCEMENT ACTIVITIES**

#### **1. Delinquent Licenses**

The Department agrees that it was not always effective in the enforcement of the licensing laws. However, most of the deficiencies cited have already been corrected. For example, the Chief Enforcement Officer now regularly and timely transmits returned mail to the Officers for follow-up action. Enforcement Officers are no longer involved in locating overdue approvals, and the Agency is in the process of obtaining five (5) new four-wheel drives for use by Enforcement Officers.

#### **2. File Management**

The Department concurs that the computer files of the Division of Licensing were at times incomplete and inaccurate. This situation resulted from problems with the computer software programs, which are currently being corrected. However, the Department disagrees with the characterization of the hard files as being incomplete simply because at the time a file was requested it was not in the cabinet. There are a

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number of valid reasons why the file of a particular business may be in the possession of another agency official at the time it was requested. These files are always **returned** to the cabinet when the reasons for their removal are complete. While we do not approve the removal of these files without using the sign-out card, we believe it is **unfair** to characterize the system as incomplete when the record is within the Agency.

Moreover, we strongly disagree with the finding that more than six thousand (6,000) business were delinquent and that more than three million dollars (\$3,000,000) in fees and penalties were outstanding. As pointed out during the exit interview, and as mentioned above, the Division's computer software program contained a flaw that resulted in businesses which were closed being erroneously carried as active. Therefore, the Delinquent Report given to the Auditors grossly overstated the number of delinquencies by including a large number of businesses that were actually closed. Additionally, the problem associated with this flaw contributed to the finding (File Management, Pg. 12) that the St. Thomas Office had approximately one thousand (1,000) hard copy files that needed to be deleted **from** the database files. The Department has since generated a more accurate list which shows the number of delinquent businesses as follows:

	St. Thomas/ St. John	St. Croix	Total	Fees	Penalties
<b>General Businesses</b>	<b>1,074</b>	<b>903</b>	<b>1,977</b>	<b>\$413,921</b>	<b>\$1,665,667.96</b>
<b>Boards</b>	<b>- -</b>	<b>----</b>	<b>192 *</b>	<b>\$ 22,210</b>	<b>\$ 85,645.00</b>
<b>TOTALS</b>			<b>2,169</b>	<b>\$436,131</b>	<b>\$1,751,312.96</b>

**\*This figure represents both St. Thomas and St. Croix.**

Moreover, it should be pointed out that, while these delinquencies have the potential for **yielding** approximately 1.7 million dollars in penalties, this figure was determined by utilizing the maximum amount penalty applicable under the law. The Department rarely applies the maximum penalty in these cases, as applicants routinely request hardship waivers or reductions. Therefore, in actuality, collections would be much less than the maximum potential yield.

### **3. Amnesty Program**

The Department strongly disagrees with the finding that licensees were allowed to renew their licenses without tax clearance letters during the Amnesty Program. **No** license was renewed during the Amnesty period. While licensees were allowed to pay license fees and were excused **from** penalties, under the program no license was renewed until a tax clearance letter was presented. Therefore, although these businesses paid their fees, they remained in delinquent status until a tax clearance letter was presented. This policy was pursued in order to aide the cash flow of the Government and was supported

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legally by an Opinion from the Attorney General's Office which states in part that the Department may collect license fees without approving a renewal and without altering its right to revoke. (See copy attached).

The Department will take the following steps to comply with the recommendation of this section:

- (a) The Department will revise Standard Operating Procedures to require Enforcement Officers to contact delinquent licensees within thirty (30) days of the expiration of their licenses.
- (b) This item has already been instituted and will be documented within the Revised Standard Operating Procedures.
- (c) This item has already begun. A purchase order for the acquisition of five (5) vehicles has been submitted to the Legislature's Finance Committee for approval. (See copy attached). We expect delivery of the vehicles in the near future.
- (d) The Department's Data Processing Manager is already working on improving the computer file management system. Significant improvements have already been made and additional improvement will come on line within the next sixty (60) days.
- (e) As indicated in our response these licenses were not renewed. The Department has already begun a series of revocation hearings aimed at bringing these and all other delinquent licensees into compliance with the law. These hearings are by necessity coordinated with IRB. (See attached listing of scheduled Hearings).
- (f) The Department has no plans to implement an Amnesty Program in the near future. We agree that any future Amnesty Program should be coordinated with IRB as was the case with the 1985 Amnesty Program. However, we disagree with requiring the concurrence of IRB. This would be tantamount to granting the Bureau veto powers over the internal affairs of the Department. Any future Department's decision to implement an Amnesty Program will have no effect on the affairs of the Bureau since under such a program, licensees would not be permitted to renew without a tax clearance letter. Therefore, we view requiring concurrence as unnecessary.



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#### D. PROFESSIONAL LICENSING PRACTICES

The Department agrees with the finding that applicants for licenses in the field of Drafting and Building Contractor should be handled by a Board. However, we believe the supervision of draftsmen should be assigned to the existing Architectural Board while a new Board should be created for control and supervision of contractors and other tradesmen (carpenters, Masons, painters, etc.). The Department has recently completed draft legislation to accomplish the creation of a Contractor's Board which will be submitted to me for consideration. In addition, I am informed that the Legislature is currently considering legislation to accomplish a similar goal.

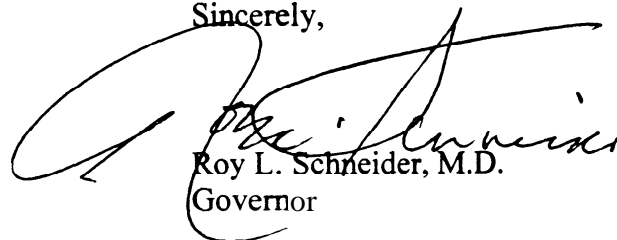
The Department will take the following actions to comply with the recommendation of this section:

- (a) The Department will recommend Legislation to me requiring that Draftsmen and Contractors be controlled and supervised by the Boards.
- (b) Once enacted, the Department would recommend that the Board develop a comprehensive test for Building Contractors.
- (c) The Department already requires licensees to demonstrate that a qualified contractor remains a member of the firm in order to renew a license. (See copy of Memo, and Contractor Acknowledgment Form).

Let me assure you that we are fully committed to correcting the acknowledged deficiencies in the licensing operations of this Government, and to improving the effectiveness and efficiency of the Department of Licensing and Consumer Affairs.

If you have any questions regarding our responses, please feel **free** to contact me.

Sincerely,



Roy L. Schneider, M.D.  
Governor

Enclosures

[ENCLOSURES NOT INCLUDED BY OFFICE OF INSPECTOR GENERAL.]

**Cc:** Mr. Arnold E. VanBeverhoudt, Jr., Regional Audit Manager  
Mr. Elmo D. Roebuck, Special Assistant for Audit & Policy Evaluation  
Honorable Osbert E. Potter, Commissioner of Licensing & Consumer Affairs

## STATUS OF AUDIT REPORT RECOMMENDATIONS

Finding/Recommendation Reference	Status	Action Required
A.1-A.3	Implemented.	No further action is required.
B.1	Management concurs; additional information needed.	Provide documentation showing that physical safeguards have been installed for the cashier's work area on St. Croix.
B.2	Management concurs; additional information needed.	Provide a copy of correspondence to the Virgin Islands Attorney General requesting a detailed review of collection-related discrepancies discussed in the report.
B.3	Implemented.	No further action is required.
B.4	Unresolved.	Provide a response to the recommendation indicating concurrence or nonconcurrence. If concurrence is indicated, provide an action plan that includes a target date and title of the official responsible for implementation. If nonconcurrence is indicated, provide specific reasons for the nonconcurrence and a description of alternative actions to be taken to correct deficiencies related to the processing of dishonored checks by the Department of Finance.
C.1	Management concurs; additional information needed.	Provide a target date and title of the official responsible for revising the Department's Standard Operating Procedures regarding contacting delinquent licensees. When completed, a copy of the revised procedures should be provided to our Caribbean Regional Office.

<u>Finding/Recommendation Reference</u>	<u>Status</u>	<u>Action Required</u>
c .2	Implemented.	No further action is required.
c .3	Management concurs; additional information needed.	Provide documentation showing that the new vehicles requested for use by the Enforcement Unit have been received.
c .4	Management concurs; additional information needed.	Provide documentation showing that the upgrades to the Department's computer file management system have been completed.
C.5 and C.6	Implemented.	No further action is required.
D.1	Management concurs; additional information needed.	Provide a target date for submission to the Legislature of draft legislation for the creation of a Contractor's Board. A copy of the draft legislation should also be provided to our Caribbean Regional Office.
D.2	Management concurs; additional information needed.	Provide a target date and title of the official responsible for developing a comprehensive test for building contractors. When completed, documentation to that effect should be provided to our Caribbean Regional Office.
D.3	Implemented.	No further action is required.

**ILLEGAL OR WASTEFUL ACTIVITIES  
SHOULD BE REPORTED TO  
THE OFFICE OF INSPECTOR GENERAL BY=**

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Sending written documents to:

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